



FOR CLERK USE ONLY

City Council

Item No. 10

CITY COUNCIL OF THE CITY OF CALEXICO FACT SHEET

Human Resources/Risk Management
Department

September 7, 2010
Requested Date

1. **Request:**

City Council approval	<input checked="" type="checkbox"/>	Information Only/ Presentation	<input type="checkbox"/>
Other (specify)	<input type="checkbox"/>	Hearing	<input type="checkbox"/>

2. **Requested Action:**

- 1) Authorize City Manager to enter into a Professional Services Agreement with Barney & Barney;
- 2) Authorize City Manager to sign contract renewal with Pinnacle Claims Management

3.

Cost:	Decrease	<input type="checkbox"/>	Amount:	_____
	Increase	<input type="checkbox"/>	Source:	General Fund & Enterprise Funds
	Decrease	<input type="checkbox"/>	Amount:	\$472,800.00
	Does Not Apply	<input type="checkbox"/>		

4. **Reviewed By:**

Finance Dept. on _____ By: _____
Comments: _____

City Attorney on _____ By: _____
Comments: _____

Note: Back up must be submitted along with this form. Deadline is 5:00 p.m., 2 Fridays before the scheduled meeting date.

CLERK USE ONLY

CITY COUNCIL DATE: _____

Action	<input type="checkbox"/>	Filing	<input type="checkbox"/>
Consent	<input type="checkbox"/>	Presentation	<input type="checkbox"/>
Hearing	<input type="checkbox"/>	Other(specify)	<input type="checkbox"/>

Reviewed by: City Clerk _____
Date _____

City Manager _____
Date _____

CITY COUNCIL AGENDA REPORT

SUBJECT: Employee Benefit Plan Agreements

AGENDA DATE: September 7, 2010

PREPARED BY: Rosalind Guerrero, Human Resources/Risk Management Director

APPROVED FOR AGENDA BY: Victor Carrillo, City Manager

RECOMMENDATION: Authorize City Manager to sign agreements upon finalization of negotiations and pursuant to approval of the City Attorney

1. Authorize City Manager to enter into a Professional Services Agreement with Barney and Barney to provide consultation/brokerage services to the Employee Benefit Plan
2. Authorize City Manager to sign contract renewal with Pinnacle Claims Management

FISCAL IMPACT: Barney & Barney - \$36,000 annual
Pinnacle Claims Management administration - \$436,800
(estimate)

BACKGROUND INFORMATION: (Prior action/information)

The City of Calexico in 2007 retained the services of Barney and Barney to serve as the city's Broker of Record to assist in consultation, management, and negotiations of the health plan, life insurance, dental plans, and Flexible Spending Accounts.

Pinnacle Claims Management serves as the city's third party plan administrator. The city's health insurance is self funded and Pinnacle administers the health care network provided by Anthem Blue Cross. Administration of the plan includes current employees and retirees. The annual cost is estimated to be \$436,800 as the administration fee is based on the number of employees per month. The cost may increase or decrease depending on new hires and or reduction in employees by resignations or layoffs.

Costs to the city for the administration of the plans are reflected in the fiscal year budget for 2010-2011.

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RECOMMENDATION:

Authorize City Manager to sign agreements upon finalization of negotiations and pursuant to approval of the City Attorney

1. Authorize the City Manager to enter into a Professional Services Agreement with Barney and Barney to provide consultation/brokerage service for fiscal year 2010-2011;
2. Authorize the City Manager to sign the contract renewal with Pinnacle Claims Management.

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Barney & Barney

AGREEMENT FOR PROFESSIONAL SERVICES

This Master Agreement is made and entered into as of the First day of September, 2010, by and between the City of Calexico ("City") and Barney & Barney, LLC, a California limited liability company, ("Consultant").

RECITALS

A. Consultant is specially trained, experienced and competent to perform the special services which will be required by this Agreement; and

B. Consultant possesses the skill, experience, ability, background, certification and knowledge to provide the services described in this Agreement on the terms and conditions described herein.

AGREEMENT

1. Scope of Services. The Consultant shall assist the City in the management of the City's employee benefits plans.

2. Compensation. Compensation to be paid to Consultant shall be a fee of \$36,000 annually, to be paid in accordance with the Method of Payment provision below. In addition, Consultant may receive additional commissions paid by insurance carriers, providing such commissions do not increase the cost of insurance coverage currently paid by the City.

3. Method of Payment. Consultant shall submit monthly billings to City in the amount of \$3,000. City shall pay Consultant no later than 30 days after receipt of the monthly invoice.

4. Ownership of Documents. All plans, studies, documents and other writings prepared by and for Consultant, its officers, employees and agents and subcontractors in the course of implementing this Agreement, except working notes and internal documents, shall become the property of the City upon payment to Consultant for such work, and the City shall have the sole right to use such materials in its discretion without further compensation to Consultant or to any other party. Consultant shall, at Consultant's expense, provide such reports, plans, studies, documents and other writings to City upon written request.

5. Independent Contractor. It is understood that Consultant, in the performance of the work and services agreed to be performed, shall act as and be an independent contractor and shall not act as an agent or employee of the City. Consultant shall obtain no rights to retirement benefits or other benefits which accrue to City's employees, and Consultant hereby expressly waives any claim it may have to any such rights.

6. Interest of Consultant. Consultant (including principals, associates and professional employees) covenants and represents that it does not now have any investment or interest in real property and shall not acquire any interest, direct or indirect, in the area covered by and during this Agreement or any other source of income, interest in real property or investment which would be affected in any manner or degree by the performance of Consultant's services hereunder.

Consultant further covenants and represents that in the performance of its duties hereunder no person having any such interest shall perform any services under this Agreement.

Consultant is not a designated employee within the meaning of the Political Reform Act because Consultant:

- i. will conduct research and arrive at conclusions with respect to his/her rendition of information, advice, recommendations or counsel independent of the control and direction of the City or of any City official, other than normal agreement monitoring; and
- ii. possesses no authority with respect to any City decision beyond rendition of information, advice, recommendation or counsel. (FPPC Reg. 18700(a)(2).)

7. Professional Ability of Consultant. City has relied upon the professional training and ability of Consultant to perform the services hereunder as a material inducement to enter into this Agreement. Consultant shall therefore provide properly skilled professional and technical personnel to perform all services under this Agreement. All work performed by Consultant under this Agreement shall be in accordance with applicable legal requirements and shall meet the standard of quality ordinarily to be expected of competent professionals in Consultant's field of expertise.

8. Indemnity. Consultant agrees to defend, indemnify and hold harmless the City, its officers, agents, employees and volunteers from and against any and all claims, demands, actions, losses, damages, injuries, and liability, direct or indirect (including any and all related costs and expenses in connection therein), arising out of the performance of this Agreement, except for any such claim arising out of the sole negligence or willful misconduct of the City, its officers, agents, employees or volunteers.

9. Insurance Requirements.

a. Consultant, at Consultant's own cost and expense, shall procure and maintain, for the duration of the contract, the following insurance policies.

i. Workers' Compensation Coverage. Consultant shall maintain Workers' Compensation Insurance and Employer's Liability Insurance for his/her employees in accordance with the laws of the State of California. In addition, Consultant shall require each subcontractor to similarly maintain Workers' Compensation Insurance and Employer's Liability Insurance in accordance with the laws of the State of California for all of the subcontractor's employees. Any notice of cancellation or non-renewal of all Workers' Compensation policies must be received by the City at least thirty (30) days prior to such change. The insurer shall agree to waive all rights of subrogation against City, its officers, agents, employees and volunteers for losses arising from work performed by Consultant for City. This provision shall not apply if Consultant has no employees performing work under this Agreement. If the Consultant has no employees for the purposes of this Agreement, Consultant shall sign the "Certificate of Exemption from Workers' Compensation Insurance" which is attached hereto as Exhibit C.

ii. General Liability Coverage. Consultant shall maintain commercial general liability insurance in an amount not less than one million dollars (\$1,000,000) per occurrence for bodily injury, personal injury and property damage. If a commercial general liability insurance form or other form with a general aggregate limit is used,

either the general aggregate limit shall apply separately to the work to be performed under this Agreement or the general aggregate limit shall be at least twice the required occurrence limit.

iii. Errors and Omissions Coverage. Consultant shall maintain errors and omissions insurance of not less than one million dollars (\$1,000,000) combined single limit for each occurrence, covering the City for any loss suffered by reasons of the Consultant's negligence in connection with the work to be performed under this Agreement.

b. Policy Endorsements. Each general liability insurance policy shall be with insurers possessing a Best's rating of no less than A:VII and shall be endorsed with the following specific language:

i. The City of Calexico, its elected or appointed officers, officials, employees, agents and volunteers are to be covered as additional insureds with respect to liability arising out of work performed by or on behalf of the Consultant, including materials, parts or equipment furnished in connection with such work or operations.

ii. This policy shall be considered primary insurance as respects the City, its elected or appointed officers, officials, employees, agents and volunteers. Any insurance maintained by the City, including any self-insured retention the City may have, shall be considered excess insurance only and shall not contribute with it.

iii. This insurance shall act for each insured and additional insured as though a separate policy had been written for each, except with respect to the limits of liability of the insuring company.

iv. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the City, its elected or appointed officers, officials, employees, agents or volunteers.

v. The insurance provided by this policy shall not be suspended, voided, canceled, or reduced in coverage or in limits except after thirty (30) days written notice has been received by the City.

c. Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions must be declared to and approved by the City. At the City's option, Consultant shall demonstrate financial capability for payment of such deductibles or self-insured retentions.

d. Certifications of Insurance and Endorsements. Consultant shall provide certificates of insurance with original endorsements to City as evidence of the insurance coverage required herein. Certificates of such insurance shall be filed with the City on or before commencement of performance of this Agreement. Current certification of insurance shall be kept on file with the City at all times during the term of this Agreement.

10. Compliance with Laws. Consultant shall use the standard of care in its profession to comply with all applicable federal, state and local laws, codes, ordinances and regulations.

11. Licenses. Consultant represents and warrants to City that it has all licenses, permits, qualifications, insurance and approvals of whatsoever nature which are legally required of Consultant to practice its profession. Consultant represents and warrants to City that Consultant shall, at its sole cost and expense, keep in effect or obtain at all times during the term of this Agreement, any licenses, permits, insurance and approvals which are legally required of Consultant to practice its profession.

12. Controlling Law Venue. This Agreement and all matters relating to it shall be governed by the laws of the State of California and any action brought relating to this Agreement shall be held exclusively in a state court in the County of Imperial, California.

13. Written Notification. Any notice, demand, request, consent, approval or communication that either party desires or is required to give to the other party shall be in writing and either served personally or sent prepaid, first class mail. Any such notice, demand, etc. shall be addressed to the other party at the address set forth herein below. Either party may change its address by notifying the other party of the change of address. Notice shall be deemed communicated within 48 hours from the time of mailing if mailed as provided in this section.

If to City:

City of Calexico, City Manager
608 Heber Ave.
Calexico, CA 92231

If to Consultant:

Barney & Barney, LLC
John Trask, Principal
9171 Towne Centre Drive, Suite 500
San Diego, CA 92122

14. Consultant's Books and Records.

Consultant shall maintain any and all ledgers, books of account, invoices, vouchers, canceled checks, and other records or documents evidencing or relating to charges of services, or expenditures and disbursements charged to City for a minimum period of three (3) years, or for any longer period required by law, from the date of final payment to Consultant to this Agreement.

Consultant shall maintain all documents and records which demonstrate performance under this Agreement for a minimum of three (3) years, or for any longer period required by law, from the date of termination or completion of this Agreement.

Any records or documents required to be maintained pursuant to this Agreement shall be made available for inspection or audit, at any time during regular business hours, upon written request by the City Manager, City Attorney, City Auditor or a designated representative of these officers. Copies of such documents shall be provided to the City for inspection at City Hall when it is practical to do so. Otherwise, unless an alternative is mutually agreed upon, the records shall be available at Consultant's address indicated for receipt of notices in the Agreement.

Where City has reason to believe that such records or documents may be lost or discarded due to dissolution, disbandment or termination of Consultant's business, City may, by written request by any of the above named officers, require that custody of the records be given to the City and that

the records and documents be maintained in City Hall. Access to such records and documents shall be granted to any party authorized by Consultant, Consultant's representatives, or Consultant's successor-in-interest.

15. Entire Agreement. This Agreement constitutes the complete and exclusive statement of Agreement between the City and Consultant. All prior written and oral communications, including correspondence, drafts, memoranda, and representations, are superseded in total by this Agreement.

16. Amendments. This Agreement may be modified or amended only by a written document executed by both Consultant and City and approved as to form by the City Attorney.

17. Waiver. No failure on the part of either party to exercise any right or remedy hereunder shall operate as a waiver of any other right or remedy that party may have hereunder.

18. Execution. This Agreement may be executed in several counterparts, each of which shall constitute one and the same instrument and shall become binding upon the parties when at least one copy hereof shall have been signed by both parties hereto. In approving this Agreement, it shall not be necessary to produce or account for more than one such counterpart.

19. Assignment and Subcontracting. The parties recognize that a substantial inducement to City for entering into this Agreement is the professional reputation, experience and competence of Consultant. Assignments of any or all rights, duties or obligations of the Consultant under this Agreement will be permitted only with the express consent of the City. Consultant shall not subcontract any portion of the work to be performed under this Agreement without the written authorization of the City. If City consents to such subcontract, Consultant shall be fully responsible to City for all acts or omissions of the subcontractor. Nothing in this Agreement shall create any contractual relationship between City and subcontractor nor shall it create any obligation on the part of the City to pay or to see to the payment of any monies due to any such subcontractor other than as otherwise is required by law.

20. Commencement and term of Agreement. This Agreement shall commence on September 1, 2010 and continue through August 31, 2012. However, the parties have the option to extend this Agreement for up to two (2) one (1) year extensions, provided the agreement to extend is mutual between all Parties.

21. Termination. This Agreement may be terminated immediately for cause or by either party without cause upon thirty (30) days' written notice of termination. Upon termination, Consultant shall be entitled to compensation for services performed up to the effective date of termination.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed on the date first written above.

CITY OF CALEXICO:

CONSULTANT:

Victor M. Carrillo
City Manager

APPROVED AS TO FORM:

ATTEST:

Jennifer M. Lyon
City Attorney

Lourdes Cordova
City Clerk

EXHIBIT A

CERTIFICATE OF EXEMPTION FROM WORKERS' COMPENSATION INSURANCE

I hereby certify that in the performance of the work for which this Agreement is entered into, I shall employ any person in any manner so as to become subject to the Workers' Compensation Laws of the State of California.

Executed on this _____ day of _____, 2010, at _____, California.

Consultant

Pinnacle Claims Management

May 3, 2010

Mr. Victor Carrillo
City of Calexico
608 Heber Avenue
Calexico, CA 92231

Re: Pinnacle Contract Renewal

Dear Mr. Carrillo:

Thank you for your continued support of Pinnacle Claims Management, Inc. (Pinnacle). As you may know, the City of Calexico contract is scheduled to renew with us on July 1, 2010. Your service fee will increase by 2.0%, which generally reflects the increase in our internal costs of doing business.

Although Pinnacle strives to achieve affordability and cost savings whenever possible, there are impacts on our operating and administrative costs that must be considered. Within the last year, Pinnacle has added new technology and increased its programming efficiency. Additionally, we administered the federally regulated COBRA subsidy on behalf of our clients and their employees. This rate modification will therefore be executed to accommodate the increased changes in the administration of services that we provide to your organization.

Your administrative per employee per month (pepm) fee will increase from \$16.54 to the new monthly rate of \$16.87 pepm. The \$1.00 admin fee for life only participants will also increase to the new monthly rate of \$1.02 pepm.

Your FSA administrative fee will increase at the time of your renewal; however, a separate contract for this service has been provided to you for your review and signature in addition to the attached amendment. We are providing this FSA contract to you as we do not currently have an agreement with you in place relative to your FSA plan.

Please note that to continue administering your FSA plan, Pinnacle is now requiring all of our clients to open and maintain a separate bank account for the administration of this product. However, if you would like Pinnacle to continue to maintain your current FSA bank account, there will now be a charge associated with this service. Additionally, we are requesting that our clients pre-fund their bank account with Pinnacle for the entire plan year. The fees associated with this service can be found under "Optional Fees" on Attachment C of the enclosed FSA Agreement. You may also use the existing bank account established for your health benefits administration for your FSA account; Pinnacle can then draft FSA reimbursements directly from that account at no additional charge. If you should have any questions or concerns regarding the attached contract, or if you should need assistance opening a bank account for your FSA plan, please do not hesitate to contact your account manager.

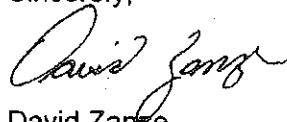
We have been notified by Anthem Blue Cross that their network rate will increase this year from the current rate of \$15.26 to the new monthly rate of \$15.72 pepm. However, your Blue Cross Blue Shield of Arizona fee will not increase from the current rate of \$19.87 pepm. Likewise, the monthly First Health fees for all services provided outside of California and Arizona will not change from the current 15% of savings.

Our standard plan amendment fee has increased to \$150 per plan amendment and has also been added to the addendum. However, Pinnacle will notify you before incurring this cost on your behalf.

Please sign, date, and return the provided amendment and FSA contract at your earliest convenience. These rates will automatically take effect July 1, 2010 unless we otherwise hear from you.

Pinnacle truly respects the relationship we have formed and welcomes all communication. If there are any questions or concerns, please contact me directly at 949-885-2209.

Sincerely,

A handwritten signature in cursive script, appearing to read "David Zarze".

David Zarze
President

Cc: Rosalind Guerrero, City of Calexico
Henry Beceiro, Barney & Barney LLC (via e-mail)

AMENDMENT VII

ADMINISTRATIVE SERVICE AGREEMENT

The following Amendment to the Administrative Service Agreement between Pinnacle Claims Management Inc. and City of Calexico is made to **ATTACHMENT C - SCHEDULE OF SERVICE FEES** to the rate schedule for administrative services performed by TPA as follows:

PINNACLE ADMINISTRATIVE MONTHLY SERVICE FEE
PER SINGLE OR FAMILY UNIT \$16.87

PINNACLE LIFE ADMINISTRATION MONTHLY SERVICE FEE
PER SINGLE OR FAMILY UNIT \$1.02

ANTHEM BLUE CROSS MONTHLY NETWORK ACCESS FEE
PER SINGLE OR FAMILY UNIT \$15.72

PLAN AMENDMENT \$150 per Amendment

FLEXIBLE SPENDING ACCOUNT (FSA)
ADMINISTRATIVE MONTHLY SERVICE FEE
PER PARTICIPANT SEE FSA AGREEMENT

All other terms of the Agreement shall remain unchanged. The above amendment is agreed upon by ADMINISTRATOR and TPA effective as of July 1, 2010, and is duly executed by their respective officers duly authorized to do so:

FOR THE PLAN ADMINISTRATOR:

By: _____

Printed Name: _____

Title: _____

Dated at: _____

This _____ day of _____, 2010

FOR PINNACLE CLAIMS MANAGEMENT, INC.:

By: David Zanze

Printed Name: David Zanze

Title: President

Dated at: Irvine, CA

This 3rd day of May, 2010